



**AN BILLE TOGHCHÁIN (LEASÚ) (UIMH. 2), 1986
ELECTORAL (AMENDMENT) (NO. 2) BILL, 1986**

*athraithe ó
changed from*

**AN BILLE TOGHCHÁIN (VÓTÁLAI THE SPEISIALTA), 1986
ELECTORAL (SPECIAL VOTERS) BILL, 1986**

*Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of Oireachtas*

ARRANGEMENT OF SECTIONS

Section

1. Interpretation.
2. Special voters list.
3. Registration of special voters.
4. Certificate to accompany application.
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Section

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SCHEDULE

ACTS REFERRED TO

Civil Service Regulation Act, 1956	1956, No. 46
Diplomatic Relations and Immunities Act, 1967	1967, No. 8
Electoral Act, 1923	1923, No. 12
Electoral Act, 1960	1960, No. 43
Electoral Act, 1963	1963, No. 19
Electoral (Amendment) Act, 1972	1972, No. 4
Electoral (Amendment) Act, 1985	1985, No. 12
Electoral Acts, 1923 to 1986	
European Assembly Elections Act, 1977	1977, No. 30
European Assembly Elections Acts, 1977 to 1986	
Local Elections Acts, 1963 to 1974	
Medical Practitioners Act, 1978	1978, No. 4
Presidential Elections Acts, 1937 to 1985	
Postal and Telecommunications Services Act, 1983	1983, No. 24
Referendum Acts, 1942 to 1986	



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5 AN BILLE TOGHCHÁIN (VÓTÁLAITHE SPEISIALTA), 1986
ELECTORAL (SPECIAL VOTERS) BILL, 1986

BILL

entitled

10 AN ACT TO PROVIDE FOR THE REGISTRATION AS
SPECIAL VOTERS OF PHYSICALLY ILL OR PHY-
SICALLY DISABLED PERSONS AND TO PROVIDE FOR
THE REGISTRATION AS POSTAL VOTERS OF CERTAIN
PERSONS RESIDENT ABROAD AND TO PROVIDE FOR
15 OTHER MATTERS CONNECTED THEREWITH AND
OTHERWISE TO AMEND THE LAW RELATING TO
ELECTIONS AND REFERENDA.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Interpretation.

“the Act of 1923” means the Electoral Act, 1923;

20 “the Act of 1963” means the Electoral Act, 1963;

“the Acts” means, as the context may require, the Electoral Acts, 1923 to 1986, the European Assembly Elections Acts, 1977 to 1986, the Presidential Elections Acts, 1937 to 1985, and the Referendum Acts, 1942 to 1986;

25 “appropriate time” has the meaning specified in *section 10* of this Act;

“ballot paper envelope” has (other than in *section 16* of this Act) the meaning specified in *section 10* of this Act;

30 “covering envelope” has (other than in *section 16* of this Act) the meaning specified in *section 10* of this Act;

“election” means, as the context may require, a Dáil election, a European Assembly election, a presidential election, a referendum or a local election and “elector” shall be construed accordingly;

35 “medical practitioner” means a person whose name is entered in the General Register of Medical Practitioners established under the Medical Practitioners Act, 1978;

“prescribed” means prescribed by Regulations made by the Minister;

“qualifying date” means the date specified by the Minister in Regulations made pursuant to section 5 (6) (a) of the Act of 1963;

“returning officer” means, as the context may require, the returning officer at a Dáil election or at a local election or the local returning officer at a presidential election, at a European Assembly election or at a referendum; 5

“special presiding officer” means a person appointed to be a special presiding officer pursuant to section 9 of this Act;

“special voter” means a person whose name is included in the special voters list; 10

“special voters list” means the list of voters prepared by the registration authority pursuant to section 2 of this Act.

Special voters list.

2.—(1) The registration authority shall prepare a separate list (in this Act referred to as the “special voters list”) of persons (in this Act referred to as “special voters”) entitled to vote at an election in accordance with the provisions of this Act without removing the names of the special voters from the register of electors. 15

(2) The special voters list shall be in such form as the Minister may direct. 20

(3) An elector whose name is entered in the special voters list shall be entitled to vote in accordance with the provisions of section 11 of this Act and shall not be entitled to vote in any other manner.

(4) The provisions of the Acts in relation to the issue of polling cards shall not apply to special voters. 25

Registration of special voters.

3.—(1) The registration authority shall enter in the special voters list the name of every elector who applies to be so entered and who satisfies the registration authority that—

(a) he is unable to go in person to vote at the polling place for his polling district by reason of physical illness or physical disability suffered by him; 30

(b) the physical illness or physical disability is likely to continue for the period of continuance in force of the register of electors in respect of which the application to be entered as a special voter is made; and 35

(c) he is of sound mind and understanding and is capable of comprehending the act of voting.

(2) The following provisions shall apply in relation to an application to be entered in the special voters list pursuant to subsection (1) of this section— 40

(a) the application shall be in the prescribed form;

(b) the application shall be completed in accordance with the instructions provided thereon;

(c) the application shall be accompanied by the certificate referred to in section 4 of this Act; 45

(d) the application form, duly completed, and the certificate referred to in *section 4* of this Act shall be delivered, or sent by post, so as to be received by the registration authority not later than the prescribed date.

5 4.—An applicant to be included in the special voters list shall furnish in support of his application a certificate in the prescribed form from a medical practitioner certifying— Certificate to accompany application.

(a) the nature and extent of the physical illness or physical disability suffered by such applicant,

10 (b) an estimate of the duration of such physical illness or physical disability,

(c) that the applicant is of sound mind and understanding and is capable of comprehending the act of voting.

15 5.—(1) An applicant to be included in the special voters list shall furnish to the registration authority any information or documents in his possession or procurement which the registration authority may require from him— Applicant to provide information or documents if required.

(a) so as to be satisfied that the applicant is a person to whom *section 3 (1)* of this Act applies, or

20 (b) for the purpose of their duties in relation to the preparation of the special voters list.

(2) Whenever a registration authority requires, pursuant to *subsection (1)* of this section, information or documents from an applicant to be included in the special voters list, such applicant shall furnish the authority with the information or documents within the time (being not less than 7 days from the day on which the request is made) specified in the requirement and, if the applicant does not supply the required information or, as the case may be, documents within the time so specified, his application to be included in the special voters list shall be deemed to have been withdrawn.

6.—The registration authority shall, within such period as may be prescribed, arrange for the giving of public notice of— Notices.

(a) the category of electors entitled to apply to be entered in the special voters list;

35 (b) the manner in which, and the time before which, applications must be submitted; and

(c) the times and places at which application forms may be obtained.

40 7.—The registration authority shall arrange for the provision of application forms at such times and places as are specified in a notice published pursuant to *section 6* of this Act, and an application form shall be supplied free of charge to any person applying therefor. Provision of application forms.

8.—(1) Where the registration authority is satisfied that an applicant— Consideration of applications.

45 (a) is a person to whom *section 3 (1)* of this Act applies, and

- (b) has duly completed his application form, and
- (c) has submitted the certificate required pursuant to *section 4* of this Act,

the registration authority shall—

- (i) rule that the application is granted and mark the application form accordingly, and 5
- (ii) notify the applicant of the decision.

(2) Where the registration authority is not satisfied that an applicant—

- (a) is a person to whom *section 3 (1)* of this Act applies, or 10
- (b) has duly completed his application form, or
- (c) has submitted the certificate required pursuant to *section 4* of this Act,

the registration authority shall—

- (i) rule that the application is refused and mark the application form accordingly, and 15
- (ii) notify the applicant of the decision and of the reasons therefor.

(3) Whenever an application is received by a registration authority after the prescribed date, the application shall be disregarded and the applicant shall be notified accordingly. 20

Special presiding officers.

9.—(1) The returning officer shall, as circumstances may require, for the purposes of this Act appoint one, or more than one, person to be a special presiding officer to carry out the functions conferred on a special presiding officer by this Act. 25

(2) The provisions of the Acts relating to the powers, rights and duties of a presiding officer appointed for a polling station at an election shall apply to a special presiding officer appointed under this section as if he were a presiding officer so appointed and as if the place where the special voter is casting his vote were a polling station at an election. 30

(3) The returning officer may perform all or any of the functions of a special presiding officer appointed under this section and the provisions of *subsection (2)* of this section shall apply to the returning officer while he is so performing. 35

(4) The provisions of the Acts relating to the right of an elector to request that his ballot paper be marked for him by a companion shall not apply in relation to a special voter.

Ballot paper etc. for special voters.

10.—(1) At the appropriate time, the returning officer shall in relation to an election cause to be delivered pursuant to *section 11* of this Act to every special voter entitled to vote at that election, the following— 40

- (a) a ballot paper for the election;

- (b) a form of declaration of identity in the prescribed form;
- (c) an envelope marked (and in this Act referred to as a "ballot paper envelope"); and
- (d) an envelope addressed to the returning officer (in this Act referred to as a "covering envelope").

(2) In this section "appropriate time" means, as the context may require—

- (a) in relation to a Dáil election, a presidential election, a European Assembly election or a local election, as soon as practicable after the adjournment of the election for the purpose of taking a poll; or
- (b) in relation to a referendum, as soon as practicable after the date of the order of the Minister appointing the polling day at the referendum.

15 11.—(1) At an election, a special presiding officer shall, in the presence of a member of the Garda Síochána, deliver to the special voter the form of declaration of identity referred to in *section 10* of this Act. Voting by special voters.

(2) No person other than the special presiding officer and the member of the Garda Síochána shall be present when the special voter is voting pursuant to this section.

(3) The special voter shall complete the declaration of identity and shall sign it or, if he is unable to write, place his mark thereon and the said signature, or as the case may be mark, shall be witnessed by the special presiding officer.

(4) The special presiding officer shall, on being satisfied as to the identity of the special voter, mark a ballot paper with the official mark and deliver it to the special voter together with a ballot paper envelope.

(5) The special presiding officer shall, as soon as he has given the ballot paper and the ballot paper envelope to the special voter, place a mark against the name of the special voter concerned on a copy of the special voters list to denote that a ballot paper has been issued to such voter but without showing the number of the ballot paper so issued.

(6) The special voter shall thereupon record in secret his vote upon the ballot paper and, when he has so recorded his vote, shall fold the ballot paper so that his vote is concealed and place the ballot paper, so folded, in the ballot paper envelope and seal the envelope and hand the ballot paper envelope to the special presiding officer.

(7) The special presiding officer shall, as soon as he has received the ballot paper envelope, place it together with the completed declaration of identity in a covering envelope which he shall thereupon seal and to which he shall affix a label in the prescribed form signed by himself and the member of the Garda Síochána.

12.—(1) The special presiding officer shall, before the time fixed for the close of the poll at the election concerned, deliver to the returning officer every covering envelope referred to in *section 11 (7)* of this Act. Duties of special presiding officer in relation to covering envelopes and other documents.

(2) On the completion of voting by special voters, each special presiding officer shall seal up, in separate packets—

- (a) the unused ballot papers and any spoilt ballot papers, placed together;
- (b) the counterfoils of the ballot papers; 5
- (c) the marked copy of the special voters list;
- (d) a ballot paper account in the prescribed form completed by him;
- (e) the marking instrument, any unused stationery and any other documents or materials in his possession which relate to voting by special voters at the election; 10

and he shall deliver all such packets to the returning officer.

Duties of returning officer in relation to votes by special voters.

13.—(1) The returning officer shall deal with the packets delivered to him by a special presiding officer pursuant to *section 12* of this Act in the same manner as he would deal, in accordance with the provisions of the Acts, with other packets containing similar documents and materials relating to an election. 15

(2) The returning officer shall place the covering envelopes returned to him by a special presiding officer pursuant to *section 12* of this Act in the postal voters ballot box and the covering envelopes and the documents contained therein shall thereafter be treated as if they were envelopes and documents returned to the returning officer by postal voters. 20

(3) In the application of the provisions of the Acts relating to postal voters to special voters— 25

- (a) a reference to “receipt” shall, in relation to documents appropriate to special voters, be construed as a reference to “declaration of identity”, and
- (b) a reference to “receipt duly signed”, in relation to such documents, shall be construed as a reference to “declaration of identity duly signed and witnessed”, and 30
- (c) if the covering envelope does not have the label referred to in *section 11* of this Act attached thereto or if such label is not duly signed by the special presiding officer and the member of the Garda Síochána, the returning officer shall reject the covering envelope and deal with it as if it were a receipt which had not been duly signed. 35

Authorisation to vote at other polling station.

14.—Where, not less than 7 days before polling day, an elector, whose name is not on the postal voters list or the special voters list, satisfies the returning officer that he is unable, by reason of physical illness or physical disability suffered by him, to vote at the polling station at which he would otherwise be entitled to vote, the returning officer may, if he is of opinion that it would be more convenient for the elector because of his physical illness or physical disability to vote at another polling station situate— 40 45

- (a) in the case of a European Assembly election, in the same county or county borough, or

(b) in the case of a local election, in the same local electoral area, or

(c) in any other case, in the same constituency,

5 in writing authorise the elector to vote at such polling station as may be specified in the authorisation instead of the polling station at which the elector would otherwise be entitled to vote.

15.—(1) In this section—

Certain persons deemed to be resident in the State.

10 “appropriate registration authority” means the registration authority for the area in which the premises referred to in *subsection (3) (a)* of this section are situate;

“civil servant” and “civil service” have the same meanings, respectively, as in the Civil Service Regulation Act, 1956;

15 “qualified person” means a citizen of Ireland who has reached the age of 18 years and is a civil servant and is a member of a mission and who, for the time being, because of the requirements of his duties, is serving outside the State;

“member of a mission” means a person—

20 (a) falling within the definition of “members of the mission” contained in the Vienna Convention on Diplomatic Relations done at Vienna on the eighteenth day of April, 1961, as set out in the First Schedule to the Diplomatic Relations and Immunities Act, 1967, or

25 (b) falling within the definition of “members of the consular post” contained in the Vienna Convention on Consular Relations done at Vienna on the twenty-fourth day of April, 1963, as set out in the Second Schedule to the said Act, or

(c) who is a member of a Permanent Mission of Ireland to an international organisation;

30 “spouse” means a person who is the spouse of a qualified person and is a citizen of Ireland and has reached the age of 18 years and is residing with the qualified person outside the State.

35 (2) A person, who satisfies the appropriate registration authority that he is a qualified person, and the spouse of such person shall, for the purposes of Part II of the Act of 1963, section 3 of the European Assembly Elections Act, 1977, and section 5 of the Electoral (Amendment) Act, 1985, be deemed to be ordinarily resident on the qualifying date in the premises in the State in which, but for the requirements of his duties, the qualified person would be resident.

40 (3) A qualified person may, not later than the prescribed date, send to the appropriate registration authority a statement in the prescribed form providing the following information—

45 (a) the address of the premises in the State in which, but for the requirements of his duties, he would be resident on the qualifying date; and

(b) particulars of his spouse (if any).

(4) Every statement by a person pursuant to *subsection (3)* of this

section shall be accompanied by a certificate in the prescribed form from the Secretary of the Department of Foreign Affairs certifying that such person is a qualified person.

(5) A statement by a qualified person as to the premises in the State in which he would be resident on the qualifying date shall, in the absence of evidence to the contrary, be accepted as a correct statement, and he and his spouse (if any) shall be registered as an elector in respect of those premises. 5

(6) The appropriate registration authority shall enter in the postal voters list the name of each person who is deemed by virtue of this section to be ordinarily resident in the State on the qualifying date. 10

(7) A person who submits a statement to a registration authority pursuant to *subsection (3)* of this section shall supply to the appropriate registration authority any information which such registration authority may require for the purposes of this section and the provisions of section 7 (3) (as amended by this Act) of the Act of 1963 shall apply to a requirement by a registration authority under this section. 15

Voting by electors referred to in *section 15* of this Act.

16.—(1) The provisions of the Acts in relation to postal voting shall apply to the issue of ballot papers to, and the return of such ballot papers by, electors whose names are entered in the postal voters list pursuant to *section 15* of this Act subject to the following modifications— 20

(a) an elector whose name is so entered in the postal voters list, in order to cast his vote, shall, in the presence of an authorised person and no other person, do the following things in the following order— 25

(i) produce to the authorised person a ballot paper (in relation to which the authorised person shall satisfy himself that it is unmarked) and a form of declaration of identity in the prescribed form; 30

(ii) complete and sign the said declaration of identity;

(iii) hand the declaration of identity to the authorised person who shall, if he is satisfied as to the identity of the person who has signed the declaration of identity, witness the signature; 35

(iv) mark, in secret, his ballot paper;

(v) place the marked ballot paper in the ballot paper envelope and effectually seal such envelope;

(vi) place the ballot paper envelope and the completed declaration of identity in the covering envelope and effectually seal that envelope, 40

(b) a reference to “receipt”, in relation to documents appropriate to such electors, shall be construed as a reference to “declaration of identity”, and

(c) a reference to “receipt duly signed”, in relation to such documents, shall be construed as a reference to “declaration of identity duly signed and witnessed”. 45

(2) In this section—

“authorised person” means a person appointed by the Secretary of

the Department of Foreign Affairs to be an authorised person for the purposes of this section;

5 “ballot paper envelope” and “covering envelope” have the meanings specified in the Fourth Schedule (as substituted by this Act) of the Act of 1923.

17.—Rule 9 (substituted by the Act of 1963) of Part I of the Fifth Schedule to the Act of 1923 is hereby amended by— Amendment of Part I of Fifth Schedule to Act of 1923.

(a) the insertion after paragraph (1) of the following paragraph:

10 “(1A) The returning officer shall object to the name of a candidate in a nomination paper if such name—

(a) is not the name by which the candidate is commonly known; or

(b) is misleading and likely to cause confusion; or

(c) is unnecessarily long; or

15 (d) contains a political reference;

and where a returning officer so objects, he shall allow the candidate or his proposer, as may be appropriate, to amend the name and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend it, as he thinks fit, after consultation with the candidate or his proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.”,

and

25 (b) the insertion in paragraph (2) after “unnecessarily long” of “or which contains a political reference other than, where appropriate, a reference to a public or elected office held, or formerly held, by the candidate” and the said paragraph, as so amended, is set out in the Table to this paragraph.

TABLE

35 (2) The returning officer shall object to the description of a candidate in a nomination paper which is, in his opinion, incorrect, insufficient to identify the candidate or unnecessarily long or which contains a political reference other than, where appropriate, a reference to a public or elected office held, or formerly held, by the candidate; where a returning officer so objects, he shall allow the candidate or his proposer, as may be appropriate, to amend the description and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend or delete it, as he thinks fit, after consultation with the candidate or his proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.

18.—Rule 10 of the First Schedule to the European Assembly Elections Act, 1977 is hereby amended by— Amendment of First Schedule to European Assembly Elections Act, 1977.

(a) the insertion after paragraph (1) of the following paragraph:

45 “(1A) The returning officer shall object to the name of a candidate in a nomination paper if such name—

(a) is not the name by which the candidate is commonly known; or

- (b) is misleading and likely to cause confusion; or
- (c) is unnecessarily long; or
- (d) contains a political reference;

and where a returning officer so objects, he shall allow the candidate or his proposer, as may be appropriate, to amend the name and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend it, as he thinks fit, after consultation with the candidate or his proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.",

and

- (b) the insertion in paragraph (3) after "unnecessarily long" of "or which contains a political reference other than, where appropriate, a reference to a public or elected office held, or formerly held, by the candidate" and the said paragraph, as so amended, is set out in the Table to this paragraph.

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(3) The returning officer shall object to the description of a candidate in a nomination paper which is, in his opinion, incorrect, insufficient to identify the candidate or unnecessarily long or which contains a political reference other than, where appropriate, a reference to a public or elected office held, or formerly held, by the candidate. Where a returning officer so objects, he shall allow the candidate or his proposer, as may be appropriate, to amend the description and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend or delete it, as he thinks fit, after consultation with the candidate or his proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.

Amendment of Local Elections Regulations, 1965.

19.—Article 22 of the Local Elections Regulations, 1965 (S.I. No. 128 of 1965), is hereby amended by—

- (a) the insertion after paragraph (1) of the following paragraph:

"(1A) The returning officer shall object to the name of a candidate in a nomination paper if such name—

- (a) is not the name by which the candidate is commonly known; or
- (b) is misleading and likely to cause confusion; or
- (c) is unnecessarily long; or
- (d) contains a political reference;

and where a returning officer so objects, he shall allow the candidate or his proposer, as may be appropriate, to amend the name and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend it, as he thinks fit, after consultation with the candidate or his proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.",

and

(b) the insertion in paragraph (2) after "unnecessarily long" of "or which contains a political reference other than, where appropriate, a reference to a public or elected office held, or formerly held, by the candidate" and the said paragraph, as so amended, is set out in the Table to this paragraph.

TABLE

(2) The returning officer shall object to the description of a candidate in a nomination paper which is, in his opinion, incorrect, insufficient to identify the candidate or unnecessarily long or which contains a political reference other than, where appropriate, a reference to a public or elected office held or formerly held, by the candidate. Where a returning officer so objects, he shall allow the candidate or his proposer, as may be appropriate, to amend the description and, if it is not so amended to the returning officer's satisfaction, the returning officer may amend or delete it, as he thinks fit, after consultation with the candidate or his proposer, if either is present, or may rule that the nomination paper is invalid as not being properly made out.

20.—(1) Sections 26 (which relates to the right to vote at a Dáil election), 51 (which relates to the right to vote at a presidential election), 70 (which relates to the right to vote at a referendum), and 85 (which relates to the right to vote at a local election) of the Act of 1963, and Rule 47 (which relates to the right to vote at an Assembly election) of the First Schedule to the European Assembly Elections Act, 1977, shall be construed and have effect subject to the following modification, that is to say, the returning officer or the presiding officer may and, if so required on behalf of any candidate or personation agent present in the polling station at an election, shall, request any person at the time of his applying for a ballot paper, but not afterwards, to produce a specified document and, if the person fails to produce such a document, or if the returning officer or the presiding officer is not satisfied that the person is the person to whom the document relates, such person shall not be permitted to vote.

Modification of Act of 1963 and European Assembly Elections Act, 1977.

(2) For the purposes of the modification of the Act of 1963 and of the European Assembly Elections Act, 1977, effected by subsection (1) of this section, "specified document" means such document as may be prescribed.

21.—The Act of 1923 is hereby amended by the substitution for the Fourth Schedule (as amended by the Electoral Act, 1960, the Act of 1963, the Electoral (Amendment) Act, 1972, and the Postal and Telecommunications Services Act, 1983) thereto of the matter set out in the Schedule to this Act.

Postal voting rules.

22.—Section 7 of the Act of 1963 is hereby amended by the substitution in subsection (3) for "twenty pounds" of "five hundred pounds" and the said subsection, as so amended, is set out in the Table to this section.

Amendment of section 7 of Act of 1963.

TABLE

(3) If any person, having been duly required pursuant to regulations under this section to give any information in his possession which the registration authority or county registrar may require for the purposes of their duties, fails to give the information or gives false information, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred pounds.

23.—Section 1 of the European Assembly Elections Act, 1977, is hereby amended by the substitution for the definition of "the postal voters list" of the following definition:

Amendment of section 1 of European Assembly Elections Act, 1977.

“the postal voters list’ means the list prepared pursuant to section 7 (4) of the Act of 1963 as extended by *section 15* of the *Electoral (Amendment)(No. 2) Act, 1986*.”

Offences and penalties.

- 24.—(1) Any person who—
- (a) in relation to an application pursuant to *section 3* of this Act, or to a statement pursuant to *section 15* of this Act, knowingly gives any information which is false or misleading, or 5
 - (b) applies in the name of another person to be entered in the special voters list, or 10
 - (c) makes a statement pursuant to *section 15* of this Act in the name of another person,

shall be guilty of an offence.

- (2) Any person who—
- (a) wilfully and without lawful authority takes, destroys, conceals, opens or otherwise interferes with any ballot paper or other document sent to a postal voter under Rule 3 of the Fourth Schedule to the Act of 1923 (as substituted by this Act), or Rule 26 (3) of the First Schedule to the European Assembly Elections Act, 1977, or Article 33 of the Local Elections Regulations, 1965 (S.I. No. 128 of 1965), or 15
 - (b) without lawful authority knowingly supplies any such ballot paper or other document to a person other than the person lawfully entitled to receive it, 20 25

shall be guilty of an offence.

(3) A person who aids, abets, counsels or procures the commission of an offence under this Act or who solicits or incites any other person to commit such an offence shall be guilty of an offence.

- (4) A person guilty of an offence under this Act shall be liable— 30
- (a) on summary conviction, to a fine not exceeding £800, or to imprisonment for a term not exceeding 6 months or, at the discretion of the court, to both such fine and such imprisonment, or
 - (b) on conviction on indictment, to a fine not exceeding £2,000, or to imprisonment for a term not exceeding 12 months or, at the discretion of the court, to both such fine and such imprisonment. 35

Regulations.

25.—(1) The Minister may make Regulations for prescribing any matter or thing referred to in this Act as prescribed or to be prescribed. 40

(2) Every Regulation made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the Regulation is passed by either such House within the next twenty-one days on which that House has sat after the Regulation is laid before it, the Regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder. 45

Expenses.

26.—(1) The provisions of section 7 (9) of the Act of 1963 shall

apply to the expenses incurred by a registration authority in preparing, pursuant to this Act, the special voters list.

5 (2) The services rendered and expenses incurred by a returning officer in complying with the provisions of this Act shall be services rendered or expenses incurred by such returning officer for the purposes of an election.

10 27.—(1) The Local Elections (Postal Voting) Regulations, 1974 (S.I. No. 118 of 1974), and the Local Elections (Postal Voting) (Amendment) Regulations, 1985 (S.I. No. 68 of 1985), are hereby revoked. Revocation.

(2) The Local Elections Regulations, 1965 (S.I. No. 128 of 1965), shall be construed and have effect as if the Regulations revoked by *subsection (1)* of this section had not been made.

15 28.—(1) This Act may be cited as the Electoral (Amendment) (No. 2) Act, 1986. Short title, collective citation and construction.

(2) The collective citation "the Electoral Acts, 1923 to 1986" shall include this Act.

20 (3) The collective citation "the European Assembly Elections Acts, 1977 to 1986" shall include this Act in so far as this Act relates to European Assembly elections.

(4) This Act, in so far as it relates to presidential elections, and the Presidential Elections Acts, 1937 to 1985, may be cited together as the Presidential Elections Acts, 1937 to 1986.

25 (5) The collective citation "the Referendum Acts, 1942 to 1986" shall include this Act in so far as this Act relates to referenda.

(6) This Act, in so far as it relates to local elections, and the Local Elections Acts, 1963 to 1974, may be cited together as the Local Elections Acts, 1963 to 1986.

30 (7) The Electoral Acts, 1923 to 1986, shall be construed together as one Act.

(8) The European Assembly Elections Acts, 1977 to 1986, shall be construed together as one Act.

(9) The Presidential Elections Acts, 1937 to 1986, shall be construed together as one Act.

35 (10) The Referendum Acts, 1942 to 1986, shall be construed together as one Act.

SCHEDULE

Section 21

"Fourth Schedule Postal Voting Rules

40 1. (1) The ballot paper to be sent to postal voters shall be in the same form as, and indistinguishable from, the ballot papers delivered to other electors. Form of ballot paper and receipt.

45 (2) The receipt sent with the ballot paper to postal voters shall be in the prescribed form and shall have printed thereon the prescribed instructions to the voter.

Presence of agents. 2. The returning officer, his assistants and clerks, members of the Garda Síochána on duty, the election agent of each candidate or some person, appointed by such election agent, and no other person except with the permission of the returning officer, may be present at the proceedings on the issue of ballot papers, and on the opening of the postal voters ballot boxes and the envelopes contained therein. 5

Issue of ballot papers. 3. (1) The returning officer shall, not later than the day after the last day for receiving nominations of candidates at an election, give the election agent of each candidate notice of the time and place at which he will issue the ballot papers, and of the number of persons each agent may appoint to attend the said issue and, where any subsequent issue of ballot papers is made, the returning officer shall give the election agent of each candidate, as soon as practicable, notice of the time and place at which he will make such subsequent issue and of the number of persons each agent may appoint to attend such issue. 10 15

(2) Each ballot paper issued shall be marked with an official mark which shall be embossed or perforated so as to be visible on both sides of the paper, and the number (including polling district letter), name and description of the elector as stated in the postal voters list shall be called out, and a mark shall be placed in a copy of the postal voters list opposite to the number of the elector to denote that a ballot paper has been issued to the elector, but without showing the number of the ballot paper issued to him. 20

(3) The returning officer shall place in an envelope addressed to the postal voter— 25

(a) the ballot paper;

(b) the form of receipt;

(c) an envelope (in this Schedule referred to as a 'covering envelope') addressed to the returning officer;

(d) a smaller envelope marked 'ballot paper envelope'; 30

and shall effectually close such first mentioned envelope.

(4) All envelopes addressed to the postal voters shall be counted and forthwith delivered by the returning officer to the nearest head post office, or such other office as may be arranged with the head postmaster, and the postmaster shall stamp with the date stamp of An Post a form of receipt to be presented by the returning officer stating the number of envelopes so delivered, and shall immediately forward such envelopes for delivery to the persons to whom they are addressed. 35

(5) Where an envelope containing a ballot paper and other documents referred to in this Rule is, before polling day, returned to the returning officer as not having been delivered to a postal voter, the returning officer may re-address the envelope and send it by post to that voter. 40

Provision of postal voters ballot boxes. 4. (1) The returning officer shall provide a ballot box or ballot boxes for the reception of the covering envelopes when returned by the postal voters. 45

(2) Every such ballot box shall, at the time of the issue of the postal ballot papers, be shown open and empty to the agents present, and

shall be sealed with the seal of the returning officer and the seals of such of the agents as desire to affix their seals, and shall be marked 'postal voters ballot box', and with the name of the constituency, and the returning officer shall make provision for the safe custody of such ballot box.

5 5. The returning officer shall, immediately on receipt of covering envelopes, place them unopened in a postal voters ballot box.

Envelopes to be placed in postal voters ballot boxes.

6. If the returning officer receives, before the close of the poll, an envelope other than a covering envelope and finds therein any document which it would have been appropriate to send to him in a covering envelope, he shall—

Envelopes to be treated as covering envelopes.

(a) securely close the envelope;

(b) endorse thereon, and sign, a statement that the envelope has been closed by him with the contents intact;

15 (c) place the closed envelope in a postal voters ballot box;

(d) thereafter treat the envelope as a covering envelope;

and any reference in this Schedule to a covering envelope shall be construed as including a reference to an envelope which has been dealt with by the returning officer in accordance with this Rule.

20 7. At the hour fixed for the closing of the poll the returning officer shall either—

Procedure at close of poll.

(a) seal each postal voters ballot box so that no further papers can be inserted therein, or

25 (b) forthwith open each such box and extract and deal with the contents thereof in accordance with Rule 8 of this Schedule.

8. (1) The postal voters ballot boxes shall be opened by the returning officer, in the presence of the agents, before the time fixed for the counting of the votes.

Opening of postal voters ballot boxes.

30 (2) The returning officer shall give the election agent of each candidate at least twenty-four hours' notice in writing of the time and place at which he will proceed to open the postal voters ballot boxes, and the envelopes contained therein, and of the number of persons such agent may appoint to be present at the opening. The returning officer shall give the said agents reasonable facilities for overseeing the proceedings at the opening of the boxes and all information with respect thereto which he can give them consistent with the orderly conduct of the proceedings and the performance of his functions.

40 (3) When a postal voters ballot box has been opened, the returning officer shall extract the covering envelopes therefrom and count and note the number of envelopes so extracted, and shall then open each covering envelope separately and examine the receipt.

45 (4) If the receipt is found to be duly signed, he shall place the receipt and the ballot paper envelope in separate receptacles or, if the ballot paper is not contained in a ballot paper envelope, he shall place the receipt in the appropriate receptacle and shall place the ballot paper, without unfolding it, if possible, in a ballot box in accordance with Rule 10 of this Schedule.

(5) If he is not satisfied that the receipt has been duly signed, he shall endorse the receipt 'rejected', and shall attach thereto the ballot paper envelope, without opening such envelope, or if there is no such envelope, the ballot paper.

(6) Where a receipt does not appear to accompany the ballot paper envelope, the returning officer shall open the envelope, and if it is found to contain the receipt, he shall deal with such receipt and ballot paper in accordance with the Rules in this Schedule. 5

(7) Any receipt not accompanied by a ballot paper, and any ballot paper not accompanied by a receipt, shall be marked 'rejected'. 10

(8) Where a ballot paper and receipt are received together, the ballot paper shall not be rejected solely on the ground that the ballot paper and receipt were, or either of them was, not placed in the proper envelopes or envelope or that any such envelope was not closed. 15

Rejected receipts.

9. (1) The returning officer shall on a request being made by the agent of a candidate show to the agent any receipt which he is rejecting on the ground that it has not been duly signed.

(2) The returning officer shall keep all rejected receipts with the attached envelopes or ballot papers, as the case may be, separate from all other documents. 20

Ballot papers to be placed in ballot boxes.

10. When the covering envelopes in any postal voters ballot box have been opened and their contents dealt with under the two preceding Rules, the returning officer shall open each unopened ballot paper envelope (other than the ballot paper envelopes referred to in Rule 8 (5) of this Schedule) and place the ballot paper, without unfolding it, if possible, in a ballot box previously shown and sealed in the manner provided in Rule 4 of this Schedule which shall be subsequently treated as a ballot box for the purposes of Rule 32 of Part I of the Fifth Schedule to this Act (as substituted by section 41 of the Electoral Act, 1963). 25 30

Duties of returning officer.

11. (1) The returning officer, as soon as may be practicable after the completion of the issue of the ballot papers and in the presence of the agents of the candidates, shall make up in separate packets, sealed with his own seal and sealed by such of the agents as desire to affix their seals, the marked copy of the postal voters list and the counterfoils of the ballot papers: provided that where any subsequent issue of ballot papers is made, the sealed packet containing the marked copy of the postal voters list may be opened by the returning officer for the purposes of that issue, and on completion of that issue, the list and the counterfoils of the ballot papers at that issue shall be made up and sealed in accordance with this Rule. 35 40

(2) As soon as the returning officer has completed the placing of the ballot papers in the ballot box mentioned in Rule 10 of this Schedule, he shall seal up in separate packets— 45

(a) the receipts which accompanied any ballot papers duly accepted;

(b) any rejected receipts, with envelopes (if any) attached; and

(c) any rejected ballot papers with envelopes (if any) attached.

5 (3) Where covering envelopes are received by the returning officer after the close of the poll, or where any envelopes addressed to postal voters are returned as undelivered, the returning officer shall not open such envelopes and shall, subject to his power of readdressing such envelopes pursuant to Rule 3 (5) of this Schedule, seal such envelopes up into separate packets.

10 (4) The returning officer shall endorse on each packet mentioned in paragraphs (1), (2) and (3) of this Rule a description of its contents, and the name of the constituency and the date of the election to which such contents relate.

(5) The returning officer shall forward to the Clerk of the Dáil at the same time as he forwards the documents mentioned in Rule 36 of Part I of the Fifth Schedule to this Act—

15 (a) any packets referred to in the foregoing provisions of this Rule, and

(b) a statement in such form as may be directed by the Minister for the Environment showing the number of ballot papers sent to postal voters, and giving with respect to such papers the particulars required by the form.

20 (6) Any envelopes returned as undelivered and any covering envelopes received by the returning officer after the said packets have been forwarded to the Clerk of the Dáil shall be retained unopened and shall be forwarded subsequently.

25 12. Rules 7 (as amended by section 42 of the Electoral Act, 1963), 38, 39 (as amended by section 1 (h) of the Electoral (Amendment) Act, 1972), 40 and 41 (as amended by section 1 (i) of the Electoral (Amendment) Act, 1972) of Part I of the Fifth Schedule to this Act shall apply to the documents sent by the returning officer to the Clerk of the Dáil under the preceding Rule in this Schedule in the same manner as these Rules apply to documents of a like nature mentioned therein.

Disposal of documents.

35 13. Rules 47 and 53 of Part I of the Fifth Schedule to this Act shall apply to the matters dealt with in this Schedule as if those Rules were set out in this Schedule, and Rules 49 and 51 of that Part of that Schedule shall apply to every agent within the meaning of this Schedule in the same manner as those Rules apply to agents within the meaning of that Schedule.

Application of Rules in Fifth Schedule.

40 14. In this Schedule 'agent' includes the election agent of a candidate and any person appointed by such agent to be present at the issue or opening of postal voters ballot papers."

Definition of agent.

AN BILLE TOGHCHÁIN (LEASÚ)
(UIMH. 2), 1986

athraithe ó

AN BILLE TOGHCHÁIN (VÓTÁLAITHE SPEISIALTA),
1986

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dá ngairtear

Acht do dhéanamh socrú chun daoine a bhfuil tinneas coirp nó míchumas coirp orthu a chlárú mar vótálaithe speisialta agus do dhéanamh socrú chun daoine áirithe a bhfuil cónaí orthu thar lear a chlárú mar phostvótálaithe agus do dhéanamh socrú i dtaobh nithe eile a bhaineann leis an méid sin agus thairis sin do leasú an dlí a bhaineann le toghcháin agus reifrinn.

*Ritheadh ag dhá Theach an Oireachtais,
16 Nollaig, 1986*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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BILL, 1986

changed from

ELECTORAL (SPECIAL VOTERS) BILL, 1986

BILL

entitled

An Act to provide for the registration as special voters of physically ill or physically disabled persons and to provide for the registration as postal voters of certain persons resident abroad and to provide for other matters connected therewith and otherwise to amend the law relating to elections and referenda.

*Passed by both Houses of the Oireachtas,
16th December, 1986*

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